

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

BERRY CONTRACTING, LP D/B/A	§	
BAY, LTD.	§	
Plaintiff§		
VS	.	§
M/V ARIES SWAN, its engines	§	CIVIL ACTION NO. C-08-312
Tackle, etc., in rem,	§	IN ADMIRALTY, Rule 9(h)
Defendant		

ANSWER OF ARIES SUPPLY 1 KS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW INTO COURT, through undersigned counsel, comes Aries Supply 1 KS, appearing solely as claimant of the *in rem* defendant, M/V ARIES SWAN, and with a full reservation of all rights and defenses pursuant to Rule E(8) of the Federal Rules of Civil Procedure, and for answer to the verified complaint of Berry Contracting LP d/b/a Bay Ltd., Aries Supply 1 KS represents upon information and belief as follows:

FIRST DEFENSE

The plaintiffs knew that the party ordering their services lacked authority to incur maritime liens on the vessel, thereby precluding the plaintiff from proceeding against this vessel *in rem*.

SECOND DEFENSE

The lien asserted in the complaint is barred by Plaintiff's knowledge, or deemed knowledge, of the "no lien" clause, paragraph 16 of the charter party between Aries Supply 1 KS

and Energy Sea & Land Projects, Inc. and pursuant to which the vessel was being operated at all relevant times.

THIRD DEFENSE

Upon information and belief, the plaintiff did not reasonably rely on the credit of the vessel and therefore lacks the right to proceed against this vessel *in rem*.

FOURTH DEFENSE

AND NOW, for answer to the specific allegations of the Plaintiff's Original Verified Complaint, and with a full reservation of all rights and defenses, Aries Supply 1 KS:

1. Admits the allegations of paragraph I;
2. Can neither admit nor deny the allegations in paragraph II due to lack of sufficient information upon which to justify a belief therein;
3. Admits the allegations in paragraph III;
4. Can neither admit nor deny the allegations in paragraph IV due to lack of sufficient information upon which to justify a belief therein;
5. Admits the allegations in paragraph V
6. Can neither admit nor deny the allegations in paragraph VI due to lack of sufficient information upon which to justify a belief therein;
7. Can neither admit nor deny the allegations in paragraph VII due to lack of sufficient information upon which to justify a belief therein;
8. Can neither admit nor deny the allegations in paragraph VIII due to lack of sufficient information upon which to justify a belief therein;
9. Denies the allegations of paragraph IX;
10. Can neither admit nor deny the allegations in paragraph IX due to lack of sufficient information upon which to justify a belief therein;
11. Denies the allegations of paragraph XI;
12. Denies the allegations of the plaintiff's prayer for relief.

WHEREFORE, Aries Supply 1 KS, appearing solely as claimant with a full reservation of all rights and defenses pursuant to Rule E(8), prays:

1. That this answer be deemed good and sufficient;
2. That the arrest of the M/V ARIES SWAN be lifted and the vessel be released from seizure;
3. That after due proceedings, the plaintiff's complaint be dismissed at the plaintiff's cost; and
4. For all such further relief to which Aries Supply 1 KS may be entitled.

Respectfully submitted,

By: /s/ John R. Pearson

John R. Pearson
State Bar No. 15693000
J. James Cooper
State Bar No. 04780010
1000 Louisiana, Suite 3400
Houston, Texas 77002
Telephone: (713) 276-5500
Facsimile: (713) 276-5555

**Attorney-in-Charge for Aries Supply 1 KS,
appearing solely as Claimant of the *in rem*
Defendant, M/V ARIES SWAN**

Of Counsel:

GARDERE WYNNE SEWELL LLP
1000 Louisiana, Suite 3400
Houston, Texas 77002
Telephone: (713) 276-5500

CERTIFICATE OF SERVICE

Pursuant to the provisions of Fed. R. Civ. P. 5, I hereby certify that on this 17th day of October, 2008 a true and correct copy of the above document was served via CM/ECF, the Southern District of Texas electronic filing system, to known counsel of record:

Jack C. Partridge
Royston, Rayzor Vickery & Williams, L.L.P.
1300 Frost Bank Plaza
802 N. Carancahua
Corpus Christi, TX 78470

Thomas R. Nork
Phelps Dunbar LLP
700 Louisiana Street
Suite 2600
Houston, TX 77002

/s/ John R. Pearson

John R. Pearson